



Queensland

Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2023

Subordinate Legislation 2023 No. 82

made under the

Corrective Services Act 2006

Land Act 1994

Marine Parks Act 2004

Nature Conservation Act 1992

Parliamentary Service Act 1988

State Penalties Enforcement Act 1999

Tobacco and Other Smoking Products Act 1998

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2023*.

2 Commencement

- (1) Part 2, division 3 commences on 1 September 2023.
- (2) Part 3, division 3 commences on 1 September 2023, immediately after the commencement of the *Tobacco and Other Smoking Products Amendment Act 2023*, section 64.

Part 2 Amendment of State Penalties Enforcement Regulation 2014

Division 1 Preliminary

3 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

Division 2 Amendment commencing on notification

4 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

- (1) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, entries for sections 26S, 26ZPF and 26ZQA—
omit.

[s 4]

(2) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*—

insert—

s 7ZK(2)		2
s 7ZK(3)		2
s 7ZK(4)		2
s 7ZM(3)		2
s 7ZN(1)	Individual	20
	Corporation	100
s 7ZO(b)	Individual	20
	Corporation	100
s 26HC(2)		2
s 26HC(4)		2
s 26S(2)		2
s 26ZPF(1)		4
s 26ZQA(1)		4
s 26ZQB(1)	Individual	20
	Corporation	100
s 26ZQB(2)	Individual	20
	Corporation	100

(3) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, administering authority for an infringement notice offence entry, paragraph (c), after ‘officer’—

insert—

, as an authorised person under section 28(5B) of that Act, or

-
- (4) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, administering authority for an infringement notice offence entry, paragraph (d)—
omit, insert—
- (d) for an infringement notice served by a conservation officer, as an authorised person under section 28(5A) of that Act—the department administering the *Nature Conservation Act 1992*; or
- (5) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (b), ‘26ZPF, 26ZQ(1) or 26ZQA’—
omit, insert—
26ZPF(1), 26ZQ(1) or 26ZQA(1)
- (6) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (f), ‘, an’—
omit, insert—
—an
- (7) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (g)—
omit, insert—
- (g) for an offence against section 26ZKE(1)—an authorised person appointed, or holding office, under the *Tobacco and Other Smoking Products Act 1998*, section 28(1) or (5A); or
- (ga) for an offence against section 26ZQB(1) or (2)—an authorised person appointed, or holding office, under the *Tobacco and Other Smoking Products Act 1998*, section 28(1) or (5B); or
- (8) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraphs (ga) and (h)—

[s 5]

renumber as schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraphs (h) and (i).

Division 3 Amendment commencing on 1 September 2023

5 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

(1) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, entries for sections 26U(1), 26VI, 26VM, 26VP, 26VR, 26VT, 26VV, 26VX, 26Y(1), 26ZE and 26ZL—

omit.

(2) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*—

insert—

s 26X(2)	2
s 26XA(5)	4
s 26ZE(1)	2
s 26ZF(1)	2
s 26ZGA(3)	4
s 26ZKD(1A)	2
s 50B(1)	2

(3) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (a), ‘26VT, 26VU(2), 26VV,’—

omit, insert—

26VU(2), 26X(2), 26XA(5), 26ZE(1), 26ZF(1),
26ZGA(3),

-
- (4) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (a), ‘26ZKD(2) or 26ZL’—
omit, insert—
26ZKD(1A) or 26ZKD(2)
- (5) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (d), ‘, 26VP, 26VW(2) or 26VX’—
omit, insert—
or 26VW(2)
- (6) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraph (e), ‘or 26VR’—
omit.
- (7) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry—
insert—
- (ha) for an offence against section 50B(1)—an authorised person appointed, or holding office, under the *Tobacco and Other Smoking Products Act 1998*, section 28(1), (2), (3) or (5A); or
- (8) Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraphs (ha) and (i)—
renumber as schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*, authorised person for service of infringement notices entry, paragraphs (i) and (j).

[s 6]

Part 3 **Amendment of Tobacco and Other Smoking Products Regulation 2021**

Division 1 **Preliminary**

6 **Regulation amended**

This part amends the *Tobacco and Other Smoking Products Regulation 2021*.

Note—

See also the amendments in schedule 1.

Division 2 **Amendments commencing on notification**

7 **Insertion of new pt 1A**

After part 1—

insert—

Part 1A **Retail and wholesale licences**

2A Approved copy of retail or wholesale licence—Act, s 7ZK

- (1) For section 7ZK(5) of the Act, definition *approved copy*, paragraph (a), the following requirements are prescribed—
 - (a) the symbols, images or words displayed on the copy of the licence must be in black on a white background;

- (b) the copy of the licence must not contain symbols, images or words that would be likely to cause a reasonable person to believe the sale of smoking products is promoted by the State, other than to the extent the copy contains symbols, images or words contained in the licence granted under the Act;
 - (c) if the copy of the licence is displayed at a retail or wholesale outlet for the licence—the copy must be sized to fit an A4 page.
- (2) For section 7ZK(5) of the Act, definition *approved copy*, paragraph (b), the following information is prescribed—
- (a) if the licensee displays a copy of the licence that contains extracts from the licence—the following information—
 - (i) for a retail licence other than a retail licence (liquor)—the words ‘*Tobacco and Other Smoking Products Act 1998* retail licence’;
 - (ii) for a retail licence (liquor)—the words ‘*Tobacco and Other Smoking Products Act 1998* retail licence (liquor)’;
 - (iii) for a wholesale licence—the words ‘*Tobacco and Other Smoking Products Act 1998* wholesale licence’;
 - (iv) the unique identification number of the licence;
 - (v) a link or code that a person may use to access the register kept by the chief executive under section 7ZQ of the Act;
 - (b) if the licensee displays a copy of the licence that is a full copy of the licence granted

[s 8]

under the Act—the information contained in the full copy.

2B Invoices for supply to retailers—Act, s 7ZL

- (1) For section 7ZL(2) of the Act, the requirements prescribed are that the invoice must contain the following details—
 - (a) the unique identifier for the invoice;
 - (b) the date of the supply of the smoking product;
 - (c) the brand name, type, variant and quantity of the smoking product;
 - (d) the following details of the retailer and licensee—
 - (i) business names;
 - (ii) contact details;
 - (iii) ABNs or ACNs.
- (2) The details mentioned in subsection (1)(a) to (d) that are contained in the invoice must be clearly visible.

8 Insertion of new s 15A

After section 15—

insert—

15A Commercial quantity for illicit tobacco—Act, s 26ZQB

For section 26ZQB(5) of the Act, definition *commercial quantity*, the quantity prescribed is—

- (a) for individual cigarettes—50 cigarettes; or
- (b) otherwise—50g of tobacco products other than cigarettes.

9 Insertion of new pt 5A

After part 5—

insert—

Part 5A Fees

15B Definition for part

In this part—

application means an application mentioned in schedule 2 in relation to a retail or wholesale licence.

15C Fees payable generally

- (1) The fees payable under the Act in relation to a retail or wholesale licence are stated in schedule 2.
- (2) However, if an application is made for a term that is a period that is shorter than 1 year, the fee payable for the application is the proportion of the fee stated in schedule 2 for the application attributable to the number of months, rounded up to whole months, that are in the term.

15D Refused or withdrawn application

- (1) This section applies if—
 - (a) an applicant has paid the fee for an application; and
 - (b) the application is refused by the chief executive or withdrawn by the applicant.
- (2) The chief executive must refund the fee for the application.

[s 10]

10 Replacement of pt 6, hdg (Transitional provision)

Part 6, heading—

omit, insert—

Part 6 Transitional provisions

**Division 1 Transitional provision for
SL No. 111 of 2021**

11 Insertion of new pt 6, div 2

Part 6—

insert—

**Division 2 Transitional provision for
Tobacco and Other
Smoking Products and
Other Legislation
Amendment Regulation
2023**

**17 Application for retail or wholesale licence
made between 1 September 2023 and 31 July
2024**

- (1) This section applies to an application for a retail or wholesale licence made between 1 September 2023 and 31 July 2024.
- (2) The fee for the application is—
 - (a) if the application is for a retail licence—the fee stated in column 2 of the following table opposite the month in which the application is made stated in column 1 of the table; or

- (b) if the application is for a wholesale licence—the fee stated in column 3 of the following table opposite the month in which the application is made stated in column 1 of the table.

Column 1	Column 2	Column 3
Month in which application is made	Fee for application for retail licence	Fee for application for wholesale licence
September 2023	37.00 fee units	53.00 fee units
October 2023	75.00 fee units	106.00 fee units
November 2023	112.00 fee units	159.00 fee units
December 2023	149.00 fee units	212.00 fee units
January 2024	187.00 fee units	265.00 fee units
February 2024	224.00 fee units	318.00 fee units
March 2024	261.00 fee units	371.00 fee units
April 2024	299.00 fee units	424.00 fee units
May 2024	336.00 fee units	477.00 fee units
June 2024	373.00 fee units	530.00 fee units
July 2024	411.00 fee units	583.00 fee units

12 Insertion of new sch 2

After schedule 1—

insert—

Schedule 2 Fees

section 15C

[s 13]

	Fee units
1 Application for a retail licence other than a retail licence (liquor) (Act, s 7G(1)(h))	448.00
2 Application for a wholesale licence (Act, s 7G(1)(h))	636.00
3 Application for renewal of a retail licence other than a retail licence (liquor) (Act, s 7M(2)(b))	448.00
4 Application for renewal of a wholesale licence (Act, s 7M(2)(b))	636.00
5 Application for restoration of a retail licence other than a retail licence (liquor) (Act, s 7N(2)(b))	448.00
6 Application for restoration of a wholesale licence (Act, s 7N(2)(b))	636.00

Division 3 Amendment commencing on 1 September 2023

13 Insertion of new s 18

After section 17—

insert—

18 Renumbering of references to Act provisions

- (1) Each reference to a provision of the Act in any of the following legislation is amended by omitting the reference to the provision and inserting a reference to the provision as renumbered under the Act renumbering provision—
 - (a) this regulation;
 - (b) the *Corrective Services Regulation 2017*, section 19(1)(y);
 - (c) the *Land Regulation 2020*, section 82(3), definition *smoking product*;

- (d) the *Marine Parks Regulation 2017*, section 152(4), definition *smoking product*;
 - (e) the *Nature Conservation (Protected Areas Management) Regulation 2017*, section 110(5), definition *smoking product*;
 - (f) the *State Penalties Enforcement Regulation 2014*, schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*.
- (2) This section expires on 2 September 2024.
 - (3) In this section—

Act renumbering provision means section 56(1) of the Act as inserted by the *Tobacco and Other Smoking Products Amendment Act 2023*, section 64.

Part 4 Other amendments

14 Legislation amended

Schedule 1 amends the legislation it mentions.

Endnotes

ENDNOTES

- 1 Made by the Governor in Council on 6 July 2023.
- 2 Notified on the Queensland legislation website on 7 July 2023.
- 3 The administering agency is Queensland Health.

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